IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Revision No. 81 of 2001.

Date of decision:13.7.2007.

Madam Lal .. ..Petitioner

Versus

State of H.P. .. ..Respondent

Coram:

The Hon'ble Mr. Justice Deepak Gupta, J.

Whether approved for reporting ? No

For the Petitioner: Mr.Naresh Thakur, Advocate.

For the respondent: Mr.R.M.Bisht, Dy.A.G.

Deepak Gupta, J.(oral)

This Revision is directed against the judgment of the Additional Sessions Judge, Una in Criminal Appeal No.15/2k/98 decided on 28.6.2001 whereby he has upheld the order of conviction recorded against the petitioner by the learned Chief Judicial Magistrate, Una. The learned trial Court has convicted the accused of having committed offences under Sections 279/304-A I.P.C. and has been sentenced to undergo simple imprisonment of six months for the offence under Section 279 IPC and for another period of 6 months and to pay fine in the sum of Rs.2000/- for the offence punishable under Section 304-A IPC.

The brief facts giving rise to the present case are that on 14.5.1995 a Canter Truck bearing No.DL-ILA-4683 is alleged to have been driven rashly and negligently by the petitioner-accused (hereinafter referred to as the accused). The truck was going from

Amb to Una. At Jhalehra a cyclist Naresh Kumar son of Parkash Chand was riding his bicycle on the kacha portion of the road outside the metalled portion and the driver hit the deceased Naresh Kumar and thereafter hit a telephone pole. Naresh Kumar died as a result of the injuries sustained by him. The accused was challenged for having committed offences under Sections 279/304-A IPC.

The facts which emerge from the evidence are that the bicycle was going ahead of the Canter Truck. It is also proved on record that the bicycle was on the kacha portion of the road. The truck driver first hit the cyclist and thereafter hit a telephone pole. PW-9 ASI Ram Dayal investigated the case. He has proved the site plan Ext.PW-9/C. The site plan shows that the pucca portion of the road is 22 ft. wide and the kacha portion is 6 ft. wide. The width of the canter is also only 6 ft. The site plan also shows that at the time of the accident 5 ft. of the canter was on the kacha portion and only 1 ft. was on the pucca portion. This coupled with the photographs Exts.PW-10/A, B, C, D clearly show that the canter was out of the control and it hit not only the cyclist but also hit the telephone pole with such a great impact that the telephone pole was flattened to the ground.

PW-3 Parveen Kumar, PW-4 Malik Chand and PW-6 Rikhi Ram who are the eye-witnesses have also supported the prosecution and all of them state that the canter

truck was being driven at a high speed and had left the pucca portion of the road and hit the cyclist on the extreme left side of the road on the kacha portion. The cycle in fact got crushed under the front tyre of the canter and thereafter the canter hit the telephone pole with a huge impact. The speed of the canter can also be visualized from the fact that after hitting the cyclist the canter dragged the cycle for 25 ft. and still managed to hit the telephone pole with such a force that the telephone pole was bent into two.

Keeping in view the entire evidence on record, I find that both the Courts below have acted strictly in accordance with evidence led before them. There is no irregularity or illegality in the orders passed by them calling for interference in exercise of the revisional jurisdiction. The petition is, therefore, without any merit and is therefore dismissed. Bail bonds furnished by the accused are cancelled.

July 13, 2007. **(Deepak Gupta),**
PV **Judge**